**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****248****RSA-522-2019 (O&M)****Date of decision: 06.05.2026****Mukesh Kumar through LR****...Appellant(s)****Vs.****Usha Verma and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Jagtar Kureel, Advocate
for the appellant.

Mr. Divanshu Jain, Mr. Arjun Sangwan,
Ms. Rashima Sharma, Ms. Minkal Rawal and
Mr. Abhinav Goel, Advocates
for respondent No.1.

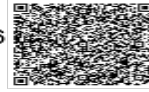
NIDHI GUPTA, J.

Defendant No.1 is in Second Appeal against the concurrent judgments and decrees of the learned District Courts, whereby suit filed by the plaintiff/respondent No.1 seeking declaration that the Sale Deed dated 14.07.2003 is illegal, null and void and had been obtained by the appellant by misrepresentation, fraud et cetera, in respect of the suit house as described in the plaint, has been decreed by both the District Courts.

2. It was the pleaded case of the plaintiff that the plaintiff and defendants are real brother and sisters. One Jasbir Kaur was owner of the suit house No. 1940 Sector 22B Chandigarh. Jasbir Kaur had entered into an Agreement to Sell dated 17.05.1979 with Narota Ram, father of the parties for purchase of the said house in the name of Narota Ram and his



son Mukesh/ defendant No.1/appellant herein; for total sale consideration of Rs.1,10,000/- of which earnest amount of Rs.1,000/- was paid. Upon payment of consideration and in terms of Agreement to Sell, Narota Ram had got possession of the house under the said Agreement. Due to some reason, Sale Deed could not be executed. Accordingly, Narota Ram and defendant No.1 had filed Civil Suit in the year 1988 for specific performance of the said Agreement to Sell dated 17.05.1979. Thereafter, Narota Ram had died on 19.04.1993. Plaintiff and defendant alongwith their mother Jamuna Devi were substituted as legal heirs of Narota Ram and arrayed as plaintiffs in the said suit. Subsequently, said suit came to be dismissed vide judgment and decree dated 21.01.2000. After dismissal of the suit, Civil Appeal was filed in the year 2000 however, only on behalf of Jamuna Devi and defendant No.1. During pendency of the Civil Appeal, Jamuna Devi had also expired on 25.01.2001. However, the said factum of death of Jamuna Devi was dishonestly not disclosed by defendant No.1 to the first Appellate Court; and legal heirs were not brought on record. Subsequently, the said Civil Appeal came to be allowed vide judgment dated 01.11.2002. Pursuant thereto defendant No.1 had got the impugned Sale Deed dated 14.07.2003 executed only in his name and become owner of the suit property vide the said Sale Deed dated 14.07.2003. It was further averred in the plaint that plaintiff is residing in the second floor of the suit house as she was delivered possession by original owner/seller. It was averred that defendant No.1 has refused to



accept the right of the plaintiff and of defendants No. 2 to 6 in the suit property. Hence, present suit was filed on 17.07.2006.

3. Upon appraisal of the pleadings and the evidence led by the parties, the learned Civil Judge (Junior Division), Chandigarh had decreed suit of the plaintiff with costs vide judgment and decree dated 24.10.2013.

The Civil Appeal filed by the defendant No.1 was dismissed by the learned Additional District Judge, Chandigarh vide judgment and decree dated 29.08.2018. Hence, the present second appeal by the defendant No.1.

4. It is *inter alia* submitted by learned counsel for the appellant that suit of the plaintiff is barred by limitation as judgment and decree in the previous suit was passed in favour of the appellant on 01.11.2002; Sale Deed was executed on 14.07.2003; whereas the present suit to challenge the same has been filed on 17.07.2006.

5. It is submitted by learned counsel for the appellant that impugned judgments have been assailed also on the ground that learned First Appellate Court has erred in not considering the fact that plaintiff has failed to affix ad valorem Court fee. Moreover, the plaintiff is estopped from filing the present suit as, after the death of Narota Ram, plaintiff was also impleaded as legal heir in the previous suit and was also represented through counsel. However, after dismissal of the said suit, plaintiff herself has chosen not to file any Appeal and as such, she is estopped from filing of the present suit. It is further submitted that although the Agreement has been executed between the original owner Jasbir Kaur, Narota Ram and appellant, however the entire sale consideration has been paid by the

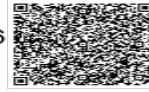


appellant. For this reason as well, plaintiff is not entitled to declaration as prayed for.

6. Learned counsel for the appellant further submits that the Sale Deed was executed only in favour of the appellant in execution proceedings in view of the judgment and decree dated 01.11.2002; and plaintiff till date, has not challenged the said judgment and decree dated 01.11.2002 and she has not challenge the order of the Executing Court in view of which Sale Deed is executed in favour of the appellant. It has been contended that until and unless the said orders are not set aside, Sale Deed executed in favour of the appellant, cannot be declared as null and void.

7. It is accordingly prayed that the present Appeal be allowed; and the impugned judgments and decrees of the Id. District Courts be set aside.

8. *Per contra*, learned counsel for the respondent No.1/plaintiff vehemently opposes submissions advanced on behalf of the appellant and submits that there are concurrent findings of fact rendered by both the District Courts that upon death of Jamuna Devi, it was incumbent upon the appellant as plaintiff/appellant in the previous suit to bring on record the LR's of Jamuna Devi; and that it was the legal duty on the part of the present appellant that the fact of death of Jamuna Devi ought to have been brought to the notice of the First Appellate Court. Further, learned District Courts have correctly held that even though plaintiff was not a party to the first Civil Appeal filed by the appellant, however being LR of Jamuna Devi, suit

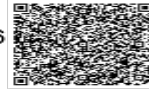


against her would not abate. Information of her death was never given to the Court.

9. It is further submitted by learned counsel for the respondent No.1 that in any event, under Order 21 Rule 15 CPC, a joint decree holder may file for execution but is entitled for execution only qua his own share. It is submitted that therefore, Sale Deed dated 14.07.2003 can at best, be said to have been executed in favour of the appellant only qua his own share. He accordingly prays for dismissal of the present Appeal being without merit.

10. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file alongwith LCR in minute detail. I find merit in the submissions advanced on behalf of learned counsel for the plaintiff/respondent No.1.

11. It is undisputed fact on record that against the dismissal of the previous suit for specific performance filed by the appellant and Narota Ram vide judgment and decree dated 21.01.2000, Civil Appeal had been filed by the appellant only on behalf of Jamuna Devi and himself. It is also undisputed fact on record that Jamuna Devi had expired on 25.01.2001, during pendency of the Civil Appeal. Again, undisputedly, factum of death of Jamuna Devi was not brought to the notice of the first Appellate Court by the appellant. It is the considered view of this Court that it was the legal duty of the appellant as first appellant in the said Civil Appeal to have apprised the First Appellate Court with regard to death of Jamuna Devi. However, this was not done; and neither were the plaintiff and defendants No. 2 to 6 impleaded as LR's in the said Civil Appeal.



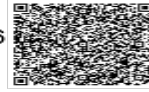
12. Accordingly, suit for specific performance was decreed by the first Appellate Court vide decree dated 1.11.2002 in favour of both, the appellant and Jamuna Devi. Thus, malafide intent of the appellant is evident from the fact that as factum of death of Jamuna Devi was deliberately not brought to the notice of the First Appellate Court by the appellant; resultantly, decree dated 01.11.2002 came to be passed in favour of the appellant and deceased Jamuna Devi.

13. In this regard, learned Trial Court as well as the learned First Appellate Court have recorded a clear finding as follows: -

“12...Further, Mukesh has not informed appellate Court and executing court about death of Jamuna Devi. He has got the suit land's sale deed only in his name, which was never the intention of the appellate Court. The appellate judgment clearly had decreed the suit in favour of Jamuna Devi and Mukesh. Therefore the legal heirs of Jamuna Devi have right in executing the sale in their favour to the extent of their respective rights. Moreover, the other legal heirs of Jamuna Devi have never relinquished their rights...”

14. Thus, from the very fact that First Appellate Court had decreed suit for specific performance vide judgment and decree dated 01.11.2002 in favour of the appellant as well as Jamuna Devi despite the fact that Jamuna Devi had expired in the interregnum on 25.01.2001, clearly establishes the malafide intent of the appellant.

15. Perusal of the said judgment clearly shows that Jamuna Devi continued to be a party even to the judgment and decree dated 1.11.2002. However, even after her death, suit did not abate against her

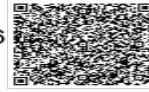


as information of her death was never given to the Court. Her right to sue had not abated as her one LR was already on record representing her right. Thus, rights of all the remaining LRs representing Jamuna Devi were being agitated through the appellant. As such, contention of the appellant that plaintiff never challenged the said judgment and decree dated 01.11.2002 is without merit.

16. Furthermore, the judgment dated 1.11.2002 clearly shows that suit was decreed in favour of Jamuna Devi and Mukesh Kumar/appellant. Thus, legal heirs have a right to execute the Sale Deed only in their respective share. It is nobody's case that legal heirs of Jamuna Devi had relinquished their rights. Thus, being legal heir of Jamuna Devi, plaintiff had every right to challenge the present Sale Deed as she alongwith defendants No.2 to 6 represented Jamuna Devi; and decree was passed in favour of Jamuna Devi alongwith the appellant Mukesh Kumar. Thus, plaintiff had clear right and locus to file the present suit as well. Contentions of the appellant to the contrary are without merit.

17. In support of my view, I rely upon judgment passed by Lahore High Court in **Karam Singh v. D.S. Tailor, (Lahore) : Law Finder Doc Id # 1509536**; wherein it is held as under:-

"A. Civil Procedure Code, 1908 Order 21 Rule 15 Execution of decree - Joint decree obtained by multiple decree-holders - One decree-holder receiving payment and issuing discharge for the entire decree - Held, unless it is proved that the decree-holder was authorized by the other decree-holders or had authority to act as their agent, he can only give discharge in respect of his own share in the decree."



18. Reliance is further placed upon a judgment passed by Rajasthan High Court in **Lalit Kumar Ganeriwala v. Shri Ram Pathya Granthagar Samiti, Ratangarh, (Rajasthan): Law Finder Doc Id # 1783646;** wherein it is held as under:-

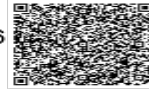
“Joint decree-holders cannot unilaterally claim satisfaction of a decree without the consent or participation of all decree-holders, as the satisfaction of a decree requires consensus among all decree-holders.

A. Civil Procedure Code, 1908 Order XXI, Rule 1 & 2 and Rule 15 Execution of decree - Joint decree-holders - Satisfaction of decree - Held, satisfaction of a decree by a few joint decree-holders cannot be recognized as full satisfaction unless all decree-holders are in agreement - Provisions of Order XXI, Rule 2 require satisfaction to be certified by the decree-holder, interpreted to mean all decree-holders jointly, not part of them - Adjustment or satisfaction by a few decree-holders is not valid in law.

B. Civil Procedure Code, 1908 Order XXI, Rule 15 Joint decree-holders - Execution of decree - Held, where a decree is jointly passed in favor of multiple persons, any one or more may apply for execution of the whole decree, but for the benefit of all decree-holders - Partial execution or satisfaction by a few decree-holders is not permissible.”

The relevant para of the said judgment is as under:-

“24. It is also not in dispute that the present application under Order XXI, Rule 1 & 2 CPC seeking to claim satisfaction of the decree was filed by only a few of the decree-holders. The



provisions of Order XXI, Rule 2 in so far as relevant reads as under :-

"2. Payment out of Court to decree-holder.- (1) Where any money payable under a decree of any kind is paid out of Court, or a decree of any kind is other adjusted in whole or in part to the satisfaction of the decree-holder, the decree holder shall certify such payment of adjustment to the Court whose duty it is to execute the decree, and the Court shall record the same accordingly."

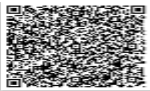
19. Reliance is also made upon a Division Bench judgment passed by Patna High Court in **Satya Narain Sarogi v. Manna Lal, (Patna)(DB) : Law Finder Doc Id # 904823**; wherein it is held as under:-

"Under Order XXI, Rule 15, Civil Procedure Code, if payment is made to one of the decree-holders of the entire decretal amount, it cannot bind the other decree-holders.

A. Civil Procedure Code, 1908, Order 21 , Rule 15 Payment made to one joint decree-holder - Held, such payment cannot bind other decree-holders - Respondent decree-holder entitled to execute decree for his own share, and not bound by certification of payment made by another decree-holder of the entire decretal amount - However, this does not affect the right of the appellant to recover the excess amount paid to one decree-holder."

The relevant extract of the said judgment is as under:-

*"7...The case' of Tamman Singh was relied upon by Jai Lal, J., in **Karam Singh and others v. D.S. Tailor and others AIR 1929 Lahore 462** and it was laid down that, under Order XXI, rule of the Code, one decree-holder could apply for the execution of the whole decree for the benefit of all the*



*decree-holders; but rule 15 was no authority for the proposition that one decree-holder could receive the entire decretal amount payable to himself and other decree-holders out side the Court and to give a valid discharge to the judgment-debtor on behalf of others. The case of **Ramkrishna and another v. Shankar and others AIR 1939 Nagpur 25** is also to the similar effect and lays down that, in the case of joint decree-holders, a payment made out of Court by the judgment debtor to one of them can only absolve the judgment-debtor in respect of the share of that particular decree-holder...”*

20. As regards contention of the appellant that suit is barred by limitation, the same is also misconceived as Sale Deed was executed in favour of the appellant only on 14.07.2003; whereas present suit was filed on 17.07.2006. However, it is a well entrenched principle of law that limitation will start from the date of knowledge of Sale Deed. In the present case, it has been found that plaintiff had instituted the suit as soon as she gained knowledge of the impugned Sale Deed.

21. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings.

22. In view of the discussion above, no ground is made out to interfere in the impugned judgments and decrees of the learned District Courts below. The present Regular Second Appeal is hereby **dismissed**.

23. Pending applications, if any, stand disposed of.

06.05.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No